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# Republican Policy Committee

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January 5, 1996

## Veto Politics: President Clinton and the Defense Authorization Bill

As the bulk of 20,000 U.S. soldiers were deploying to Bosnia, President Clinton vetoed the FY 1996 Department of Defense (DoD) Authorization bill, H.R. 1530. The yearly defense bill authorizes appropriations for military activities of the Department of Defense, military construction, pay raises and allowances.

In his veto message of December 28, 1995, President Clinton stated:

"H.R. 1530 would unacceptably restrict my ability to carry out this country's national security objectives and substantially interfere with the implementation of key national defense programs. It would also restrict the President's authority in the conduct of foreign affairs and as Commander in Chief, raising serious constitutional concerns."

The President detailed a series of objections to rationalize his veto. Some of these objections misrepresent the content of the bill; others are irrelevant because they are included in the companion 1996 DoD Appropriations bill, which President Clinton allowed to become law.

### **Objection: *Missile Defenses. . . "A Collision Course with the ABM Treaty"***

"The bill requires deployment by 2003 of a costly missile defense system able to defend all 50 States from a long-range missile threat. . . . [The bill] would also likely require a multiple-site architecture that cannot be accommodated within the terms of the existing ABM Treaty. By setting U.S. policy on a collision course with the ABM Treaty, the bill would jeopardize continued Russian implementation of the START I Treaty and Russian ratification of START II."

### **Response: *The ABM Treaty is Amendable***

The DoD Authorization bill sets the United States on a prudent course to deploy a **modest, affordable and operationally effective** ground-based national missile defense (NMD) system by 2003. Today, the United States remains defenseless against long-range missile threats; Russia has a ground-based missile defense system deployed around Moscow. Action is required now to enable America to deploy a missile defense system in the future. And if the President objects to defending all 50 States from long-range missile threats, perhaps he could identify those states he thinks should remain vulnerable.

Although the Conference Report does call for deployment of an NMD system that could defend all 50 States, nowhere does it **require** a multiple-site system by a date certain. Notwithstanding the President's misleading veto message, nothing in the Conference Report requires or even advocates a violation of the ABM Treaty.

While it is true that *deploying* a ground-based, multiple-site national missile defense system would be inconsistent with the 1972 Anti-Ballistic Missile (ABM) Treaty, the vetoed bill urges the President to initiate negotiations with Russia to amend that Treaty. Such action is *wholly consistent* with Article XIV of the ABM Treaty which states that "Each Party may propose amendments to this Treaty." The provisions in the DoD bill are meant to create conditions whereby the United States and Russia would agree to move beyond the initial terms of the ABM Treaty toward mutual missile defense deployments, in order to keep pace with common threats from the proliferation of weapons of mass destruction.

Finally, in his veto message, the President appears to have bought into Russia's view that the ABM Treaty and START should be linked. Russia has repeatedly tried to tie U.S. action on the START Treaty to America abiding by the Russian interpretation of U.S. obligations under the ABM Treaty. Traditionally, the U.S. government has rejected such linkage.

In fact, the resolution of ratification to the START II Treaty, currently before the U.S. Senate, contains one condition and one declaration clarifying that U.S. ratification of the START II Treaty: 1) "shall not be interpreted as an obligation by the U.S. to accept any modification, change in scope, or extension of the ABM Treaty," and 2) "changes none of the rights of either Party with respect to the provisions of the ABM Treaty, in particular, Articles XIII, XIV, and XV."

If anything threatens START II it is the Administration's careless rhetoric rather than the missile defense provisions in the Conference Report.

### **Objection: "*Unwarranted Restrictions*" on Presidents' Prerogatives**

"The bill imposes restrictions on the President's ability to conduct contingency operations essential to national security. Its restrictions on funding of contingency operations and the requirements to submit a supplemental appropriations request within a time certain in order to continue a contingency operation are unwarranted restrictions on a President's national security and foreign policy prerogatives."

### **Response: *The President Should Submit Supplemental Spending Requests***

The Constitution vests in Congress the power of the purse. The DoD Authorization bill merely requires the President to submit a supplemental request for those "contingency operations" which were not contained in the original budget request. The President is already required to submit an annual budget request and applying this requirement to contingency operations is completely appropriate.

Since Bill Clinton became President, U.S. troops have been sent on a number of questionable "contingency operations," sometimes with little or no consultation with Congress, yet Congress has ultimately been required to appropriate funds to pay for these operations. President Clinton has consistently raided the Operation and Maintenance (O&M) accounts, which fund near-term readiness, to pay for "contingency operations." This practice has consistently resulted in damaging the readiness of the U.S. Armed Forces because funds for training, maintenance, and base operations have been diverted to pay for the "contingency operations." To protect readiness from being jeopardized by the costs of unexpected contingency operations, the DoD bill puts a mechanism in place for the President to fund any contingency operation in excess of \$100 million without damaging readiness.

To assist the President, the DoD bill contains legislation allowing the Administration to identify offsets to be used to pay for contingency operations. The provision President Clinton cites as placing "unwarranted restrictions" on the President's foreign and national security prerogatives merely requires that the President obtain Congress' approval to use appropriated funds for purposes other than the President originally requested and Congress originally approved.

**Objection: *Infringes on the Authority of the Commander-in-Chief***

"By requiring a Presidential certification to assign U.S. Armed Forces under United Nations operational or tactical control, the bill infringes on the President's constitutional authority as Commander-in-Chief."

**Response: *Requirement . . . U.S. National Security Interests***

The provision contained in the DoD Authorization bill on U.N. command and control merely requires the President to certify that such placement is in the U.S. national security interest. The American people, and of course U.S. soldiers, should expect no less. Why should President Clinton object to such language if he intends to place U.S. soldiers under U.N. command and control **only** to serve U.S. national interests?

**Objection: *"Counterproductive Requirements" for CTR Funds***

"The bill includes counterproductive certification requirements for the use of Nunn-Lugar Cooperative Threat Reduction (CTR) funds and restricts use of funds for individual CTR programs."

**Response: *Ensuring Proper Use of Taxpayer Dollars***

The Authorization bill authorizes \$300 million for the CTR program. While this level is \$71 million below the Administration request, it is \$100 million above what the House bill originally authorized.

The President charges that the bill's certification requirements are "counterproductive." What is counterproductive about ensuring that U.S. taxpayer dollars sent to Russia to assist in weapons destruction and threat reduction are used for those purposes?

Specifically, the limitations placed on the use of CTR funds include such things as:

- Requiring a presidential determination that each recipient country is observing the criteria for assistance provided under the CTR program;
- Requiring the Secretary of Defense to provide congressional defense committees with advance notification of obligation of funds;
- Requiring an annual audit and examination report;
- Limiting assistance to nuclear weapons scientists;
- Limiting the obligation of \$60 million in FY 1996 CTR funds for Russia, pending presidential certification that Russia is complying with its Biological Weapons Convention obligations and that Russia has agreed to, and implemented, agreements and visits per the Joint Statement on Biological Weapons, and that visits to the four declared military biological facilities of Russia by officials of the U.S. and U.K. have occurred.

Given that the U.S. has provided Russia with several billion dollars since the CTR program was established, and that questions have arisen over Russia's diverting these funds to other purposes, it is wholly appropriate to place conditions on the further disbursement of the taxpayers' dollars.

**Objection: *Restrictions on Military Abortions Overseas***

"I remain very concerned about provisions that would restrict service women and female dependents of military personnel from obtaining privately funded abortions, in military facilities overseas, except in cases of rape, incest, or danger to the life of the mother. In many countries, these U.S. facilities provide the only accessible, safe source for these medical services. Accordingly, I urge the Congress to repeal a similar provision that became law in the 'Department of Defense Appropriations Act, 1996.'"

**Response: *Same Language as in DoD Appropriations Bill, Now Law***

The language regarding abortions at military facilities overseas in the DoD Authorization bill is the exact same language contained in the DoD Appropriation bill for 1996. While President Clinton objects to this provision in the DoD Authorization bill, he did not let the same exact provision prevent the DoD Appropriation bill from becoming law in December of 1995.

**"Best. . . Military On Earth"**

In his January 24, 1994 State of the Union Address, President Clinton assured the American people that, "From the day I took the oath of office, I pledged that our nation would maintain the best-equipped, best-trained and best-prepared military on earth." If this were the case, the President would have signed, not vetoed, the FY 1996 DoD Authorization bill.

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